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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1683rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-16992 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Algeria (CCPR/C/101/Add.1; CCPR/C/83/Q/ALG/1/Rev.1) (continued)

1. At the invitation of the Chairperson, the members of the Algerian delegation took places at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to comment on the answers given by the delegation of Algeria to the questions asked.

3. Mr. KRETZMER, having thanked the delegation for its replies, said he wished to express his sympathy for the Algerian people and to emphasize that the terror reigning in Algeria could not be condoned, and merited universal condemnation.

4. From the replies given, he understood that judicial investigations were held in order to identify the persons responsible for massacres, and that the only other inquiry was an internal army investigation. There had been serious allegations of collusion between the terrorists and certain members of the armed forces, as a result of which the military had not done as much as it should to stop the massacres and protect the population. He was confident that the Government was in no way party to such collusion but, assuming for the sake of argument that collusion had occurred, he wondered how an internal army investigation would reveal it. He would appreciate more details on the way the inquiry had been carried out.

5. He had not received an adequate reply to his question on torture. The Committee found it difficult, in the light of the evidence before it, to accept the delegation's denial that torture existed in Algeria. He had not asked how individual complaints of torture were dealt with, but rather what kind of monitoring system the authorities had in place to ensure that interrogations were conducted in a way that did not contravene either the law or the provisions of the Covenant.

6. A report by Algeria's own National Human Rights Observatory (ONDH) had stated that there had been cases of incommunicado detention, and that certain detention centres were not subject to the law. The delegation had stated in its reply that incommunicado detention was illegal: the problem was not so much, however, whether a law existed as whether there were persons in Algeria who were acting outside the law, and there was strong evidence that such was the case.

7. Ms. MEDINA QUIROGA said that the delegation had not replied to her question on the special courts, apart from stating that such courts no longer existed. The Committee was not investigating the current situation only, it was also interested in the situation that had existed over a period of years the more so since it was possible that death sentences handed down by the special courts might not have been in accordance with due process. No reply had been given either to her question on the human rights implications of

Decree No 92-03. She had also asked how many complaints of disappearances had been made either to the ONDH or to the courts, how many had been investigated, whether anyone had been sentenced, and whether any of the victims had been found.

8. Since the ONDH admission that secret detention centres existed, what action had been taken on the matter? Why had such bodies as Amnesty International and the International Committee of the Red Cross (ICRC) not been permitted to visit prisons? Had there been any investigation into the activities of the security forces at the time of the massacres, and particularly into whether they had assisted victims, in view of the evidence that, in one case, calls to the gendarmerie had gone unanswered?

9. Lastly, she would appreciate more information on the very severe press censorship imposed by Act No. 90-07 of 3 April 1990, which made it a crime to publish information that might be prejudicial to national security or insulting to the honour of the nation.

10. LORD COLVILLE said he wished to make it quite clear that he deplored the terrorism in Algeria, admired what was being done to help the victims, and accepted that the population needed to be able to defend itself. He also accepted that any offences committed by members of the legitimate defence groups would be punished. However, there had been a specific case in which such a group had acted out of revenge and had left its own territory to operate elsewhere. That could not have happened if the group had been under a proper command structure and properly trained. In his view, putting weapons in the hands of unsupervised and untrained civilians was a danger to the public and posed a threat to the right to life under article 6 of the Covenant.

11. While he was not attacking the delegation of Algeria, he failed to understand why it was unwilling to reply to questions that were of legitimate concern to the Committee.

12. Ms. EVATT thanked the delegation for the information it had given, but said she was not satisfied with the replies to the questions asked. The Committee's task was not to engage in political debate but to find out what legal and practical measures the Government was taking to deal with the situation.

13. She had still not received a reply to her question as to whether it would be lawful for a woman raped in an act of terrorism to have an abortion, and whether there had been any prosecutions of persons found guilty of rape in such circumstances.

14. Mr. POCAR said that the numerous allegations of enforced disappearances in Algeria raised issues of great importance in relation to various articles of the Covenant and deserved a clear and precise reply. Unfortunately the answers given had been somewhat hasty, and had all been in the context of the report of the Working Group on Enforced and Involuntary Disappearances. Replies to another United Nations body were not necessarily sufficient to

satisfy the Committee, which was concerned specifically with compliance with the provisions of the Covenant. The delegation had a duty to provide answers in accordance with the Committee's procedures.

15. He therefore wished to repeat the question he had asked the previous day, namely, what investigations had been carried out into the disappearances, what had been the result, and what action had been taken in regard to those identified as responsible.

16. Mr. DEMBRI (Algeria) said it was not his delegation's intention to conceal the facts or to try to avoid giving explanations. Nevertheless, many of the questions asked related to mere allegations, which had not been proved. If the Committee knew of actual cases in which torture had occurred, it should provide the delegation with the facts, so that an official investigation could be made. He pointed out that, in November 1996, his Government had submitted a report to the Committee against Torture giving a full account of the situation in Algeria in that regard. It was willing to make available to the Human Rights Committee copies of the correspondence exchanged in all reported cases of disappearances, documentation that was essential to a proper understanding of the position.

17. The reports of non-governmental (NGOs) such as Amnesty International were often quoted, but the assertions made in them had not been tested under any recognized procedure and remained nothing more than allegations. When accusations were made against a sovereign State, the principle of presumption of innocence should be respected, and amateurism avoided. He had been greatly shocked by the Committee's use of the phrase "State terrorism".

18. Although certain past practices had perhaps been questionable, the necessary changes had been introduced and progress made. Irrespective of the number of times capital punishment had been used in the past, what was important was that, five years previously, Algeria had decided to abolish it. A human rights monitoring system did in fact exist: control was exercised not only by Parliament, but also by the ONDH.

19. ICRC relations with Algeria were entirely normal. In October 1998 it would be sending a mission to the country which would engage in prison visits.

20. Mr. HELLAB (Algeria), in reply to the question on what kind of investigations had been carried out into the massacres, said that in addition to the judicial investigation there had been independent inquiries. More than 360 journalists from all over the world had been allowed free access to the sites, and there had also been inquiries by the ONDH and by parliamentarians of both Government and opposition parties. On the question of the failure of the gendarmerie to respond to a telephone call, he said that the line in question had been cut before the call was made.

21. There had perhaps been some misunderstanding with regard to the legitimate defence groups, or community guards. They received six months' training, and never acted independently but always under the control of police officers. Once the immediate threat to their community had passed, they would be disbanded, and the task of defence would be left to the police.

22. Mrs. ZERROUKI (Algeria), responding to the question concerning the special courts, said that they had been set up in 1992 to deal with terrorist offences, and had existed until 1995. Because of the dangers to which juries in such cases were exposed, the courts were composed only of magistrates, whose identity was kept secret for their own protection.

23. The right to defence counsel had been guaranteed in proceedings before the special courts as had the principles of non-retroactivity of the law and the presumption of innocence. In the operation of the special courts, there had been a distinction made between procedural rules, which had been applied retroactively, and substantive rules, which had not. Concerning the suspension of lawyers by the special courts, she said the regulation in question, which had been adopted in response to the numerous problems faced in 1992, had never been applied because the members of the bar had hotly opposed it.

24. Mr. HAMED ABDELWAHAB (Algeria), responding to the comments and questions about the number of times the death penalty had been pronounced by the special courts, said the first such decisions dated back to 1991. The death penalty was applied by judges on the basis of the gravity of the offence. Bombings and collective massacres that had left great numbers of victims, murders followed by rape and mutilation that represented the height of barbarism were all infractions that were subject to the death penalty under criminal law. In many cases, the accused were members of armed groups who were still at large and had been the subject of contumacious judgements, where the law provided that the maximum penalty should be imposed.

25. The figure of 1,991 death sentences had been greatly played up by the media and the NGOs. Only 287 had been adversary judgements and thus subject to execution, while the remainder, being contumacious judgements, became null and void upon the appearance before the court or the apprehension of the convicted person. About half of the 287 adversary judgements had been the subject of applications for judicial review and were currently before the Supreme Court. None of the remaining judgements had been carried out. The guilty parties had thus not been punished, and the sufferings of the victims of atrocities and their families could be imagined.

26. Clemency was a common approach in Algerian society and the death penalty had rarely been imposed before 1991. Since 1962, for example, not a single woman had been executed. Since 1990, only 22 death penalties had been carried out - the death toll of terrorism was far higher.

27. Mrs. KARADJA (Algeria), replying to a question regarding the ONDH, said it was responsible for monitoring respect for human rights by governmental institutions. It received complaints from citizens and, in investigating such complaints, could request information from the relevant authorities and could even bring issues to the attention of the President of the Republic. It was not, however, in a position to determine whether or not secret detention centres existed: it could only report and investigate complaints on the subject.

28. Acts of rape were committed on a massive basis by the terrorists. They were subject to prosecution under the law and therapeutic abortion was

available, information on that subject being disseminated by an interministerial committee. Abortion was often practised by the rapists themselves in the sense that once a woman or girl was found to be pregnant, she was killed.

29. Mr. BUERGENTHAL said that, while he agreed with Mr. Dembri that there was a problem of methodology in the Committee's discussion of Algeria's report, he did not agree with the diagnosis of the nature of the problem. The Committee's task was to use the reports provided by Member States to determine how they were discharging their responsibilities under the Covenant. The Committee had both the right and the duty to challenge the information contained in the reports and, to that end, it made use of information from outside sources and supplied delegations with lists of questions. It was neither a court seeking to establish guilt nor a propaganda organ looking for material. Its purpose was to elucidate the facts in the interests of constructive dialogue with the Member States and, to do so, it needed full, factual responses to its questions.

30. It was always a matter of concern to the Committee, therefore, when answers to its questions were not forthcoming, and that was currently the case with Algeria. On three issues - the access of the ICRC to prisons, the presence of foreign observers at trials and the failure of police forces to respond to a telephoned alert about a massacre - the response of the Algerian delegation had been disappointing.

31. Ms. MEDINA QUIROGA said she endorsed the previous speaker's remarks and would like to receive a copy of the latest ONDH report.

32. Mr. DEMBRI (Algeria) said that the dialogue would have been more productive had his delegation been aware from the start that lively debate and the challenging of documentary sources were both allowed and encouraged. Documents - whether from within the United Nations system or outside it - often had to be read with a critical eye. He would see to it that the Committee received a copy of the 1996 report of the ONDH and also of the March 1998 report of the Ombudsman.

33. It was surprising, however, that the Centre for Human Rights did not provide the documentation needed by the Committee for its work. The texts requested by the Committee during the previous day's discussion could have easily been procured by the Centre, but his delegation had done that work itself and had supplied them to the Committee.

34. The CHAIRPERSON said she would transmit the documents in question to all the members of the Committee who desired copies. She invited the Algerian delegation to reply to the questions contained in the final list of issues (CCPR/C/63/Q/ALG/1/Rev.1), starting with paragraph 11.

35. Mrs. KARADJA (Algeria) said that acts of rape were mainly attributable to armed groups. According to a so-called religious decree issued by fundamentalist groups in 1994, the wives of enemies were to be regarded as the spoils of war. Since then the incidence of kidnapping of women followed by rape had increased.

36. A question had been asked about nikah al-mut'ah (temporary marriage for sexual pleasure), but that was not part of the Islamic religious culture of northern Africa. It was a practice used in Afghanistan, where the armed groups had trained, but their actions in Algeria had nothing to do with any religious rite. Rape and sexual violence, the enslavement of women, collective rape and the commission of unnatural acts were what was involved. Another form of violence against women was mutilation, particularly of the genital organs and abdomen, while women were murdered in the most horrifying ways. Those sadistic refinements corresponded to the ideological notion widespread among the armed groups that the more pain one inflicted, the closer one drew to Paradise.

37. As to the investigation of cases, it was a rare occurrence because women were usually killed after having been subjected to violence by the armed groups. The measures taken to deal with such violence included the training of 800 women who were being assigned to urban police stations to receive complaints from women and young girls concerning rape and sexual violence. The purpose was to help women overcome their fears and shame in such situations. Other steps included efforts to provide support and solidarity through social workers and members of NGOs and to disseminate religious and cultural messages so as to overcome the stigma accompanying the suffering of such women. Finally, the Ministry of the Interior had adopted a regulation declaring raped women to be victims.

38. Ms. Medina Quiroga, Vice-Chairperson, took the Chair.

39. Miss CHAIEB (Algeria) said that abortion was provided by the State free of charge to rape victims in both public and private hospitals. It was one means of restoring the person concerned to mental health. The measure had been instituted in response to requests from families, and more and more women were taking advantage of it. Women were not obliged to have abortions, however: some gave birth and then abandoned the child to State institutions or gave it up for adoption.

40. Mr. DEMBRI (Algeria) added that therapeutic abortion was provided for in the Code of Public Health. As for nikah al-mut'ah, it was a practice that was contrary to the Islamic religious rites of northern Africa and was attributable to the training of the armed groups in Afghanistan.

41. Mrs. BOUABDELLAH (Algeria) said that the National Committee for the Preservation and Promotion of Women had been established for the purpose of concretizing the Government's policy in the field of promotion of women's rights following Algeria's ratification of the Convention on the Elimination of All Forms of Discrimination against Women. It was presided over by a woman and its membership included, in addition to representatives of ministries and other State institutions, several representatives of trade unions, employers' associations, women's associations and a number of well-known public personalities. The National Committee had been preceded in 1996 by the National Committee for the Preservation and Promotion of the Family, a permanent body attached to the Ministry of National Solidarity and the Family whose principal function was to assist needy families.

42. There were no practical restrictions on women's participation in public life. The proportion of women magistrates (677 out of a total of 2,506) was higher than in most countries. There were nine women members of the National Council and seven of the Council of State; 322 women had stood for office in the recent parliamentary elections, and 75 of them had been elected; and there had been a woman candidate for the office of President of the Republic.

43. With regard to the question in paragraph 12, subparagraph (c), she said that the equality of citizens before the law was proclaimed in the Constitution. Neither the Civil Code nor the Criminal Code contained any provisions that discriminated against women in any way. For example, the law governing adultery did not provide for heavier penalties for adulterous women than for men. So far as inheritance was concerned, the Family Code was largely based on the principles of Sharia law. Lastly, as regards the passing on of nationality to children and citizenship, she said that a child of an Algerian mother and an unknown father was automatically an Algerian citizen.

44. Ms. Chanet resumed the Chair.

45. Mr. DEMBRI (Algeria) said that the Algerian Nationality Code was based on a combination of jus sanguinis and jus soli.

46. Mrs. ZERROUKI (Algeria), replying to question 13, said that freedom of thought, conscience and religion was guaranteed by article 36 of the Constitution. There was nothing in the Algerian legal system that obliged anyone to belong to a religious group or to a recognized church. The office of President of the Republic was the only one for which profession of the Muslim religion was a requirement. Some other posts were reserved to Algerian nationals, but religion was never a criterion. It was true, however, that people who might previously have openly proclaimed their atheism were perhaps afraid to do so in the current crisis.

47. Mrs. ZERROUKI (Algeria), replying to the questions in paragraph 14, said that the right to establish political parties had been provided in the old Constitution subject to certain conditions which had proved in practice to be insufficiently precise to guarantee the exercise of political rights on a sound democratic basis. The new Constitution laid down a general regulatory framework for the activities of political parties, and the purpose of the Act referred to in the first question was to implement those provisions.

48. The principles and aims of article 3 of the Act were not exclusively religious but extended to the whole of Algeria's common heritage. The conditions for establishing a political party were set out in paragraph 114 of the report (CCPR/C/101/Add.1), and other relevant rules and conditions were to be found in paragraphs 115 to 118. So far, 23 political parties, including the most representative ones, had completed the transitional period and conformed to the provisions of the revised Constitution.

49. Miss AKEB (Algeria), replying to the question in paragraph 15 and to a supplementary question asked by a member of the Committee in connection with Act No. 90-07 of 3 April 1990, said that reporting of information considered to be potentially threatening to national unity did not lead to suspension of publication. Several cases of suspension of newspapers had occurred in 1992

and 1993, when it had been felt that information published could be construed as propaganda in favour of terrorist groups. The journalists concerned had protested, stating that it was their duty to inform the public and an extensive debate had taken place. As a result, there had been no further suspensions of publication for any reason, including security considerations, since 1993.

50. The state of emergency had had no consequences for the press; all the major newspapers had continued to be published throughout the period, the national union of journalists had remained active and so forth. The "comités de lecture" referred to by a Committee member in a supplementary question were no longer in existence. While it was true that the existing Information Code provided for penalties of imprisonment for defamation (para. 166 of the report), a new law that was currently being drafted in consultation with journalists and other members of civil society replaced those penalties by simple fines. Finally, in reply to a further question, she said that the last killing of a journalist had occurred on 11 August 1996.

51. Mrs. ZERROUKI (Algeria), replying to the questions in paragraph 16, said that Algerian law distinguished between public meetings and public demonstrations, the latter being held out of doors and potentially involving crowd movements. The only restriction placed by the Constitution on the freedom of assembly was the preservation of public order and security. The arrangements for obtaining authorization to hold a public meeting were very flexible; a declaration stating the object, place, time, duration, etc., of the proposed meeting and bearing the signatures of at least three persons, had to be submitted to the Prefect of Police three days in advance, and authorization was withheld only in rare cases where a disturbance of public order was considered likely.

52. In the case of public demonstrations, the application had to be submitted eight days in advance and had to contain a detailed indication of the route, the anticipated number of participants, and the financing arrangements. The Prefect was required to reach a decision within five days and, if authorization was withheld, had to give his reasons to the Ministry of the Interior. Again, only demonstrations where an infringement of public order was anticipated were banned. As previously mentioned, more than 15,000 political meetings had been held in Algeria since the beginning of the state of emergency.

53. With regard to associations, the principle of the participation of civil society in the running of public affairs was proclaimed in four articles of the Constitution. The number of associations of various kinds - cooperative, scientific, cultural, charitable, etc. - had risen from only 17 in 1962 to several thousands in 1998. The registration procedure included the signing of an application by at least 15 founding members, who had to be of Algerian nationality, the adoption of statutes by a general assembly of members, and various other formalities. Government subsidies to the associations ran into tens of millions of dollars, and associations were represented on the National Council for Youth, the Economic and Social Council, the Education Council, the Consumers' Protection Council, the National Council for the Environment, and so forth.

54. Mrs. ZERROUKI (Algeria) said that freedom of assembly was guaranteed by the Constitution even under the state of emergency. No authorization was required for a public meeting and the authorities could not prohibit a meeting without referring the case to a magistrate. Demonstrations, on the other hand, were subject to authorization.

55. The authorities could neither dissolve an association nor prohibit its establishment. If they considered that an association had failed to comply with the legal requirements governing associations, they were obliged to refer the matter to an administrative court. Administrative judges in Algeria formed part of the judiciary and were irremovable.

56. Many demonstrations had been prohibited under the state of emergency because of the threat of terrorist acts but such prohibitions could be challenged in the courts. In a case brought by the Socialist Forces Front, for example, the Administrative Division of the Court of Algiers had ruled against a demonstration ban by the authorities on the grounds that the constitutional freedom in question could be restricted only where there was a serious risk of a breach of the peace. The victims of the seizure of newspapers by the authorities (a type of incident that belonged to the past) could also have challenged that action in the courts but had failed to do so.

57. The law entitled a third party to request the suspension or dissolution of an association. Another association, for example, could complain that its acronym had been appropriated without its authority. The courts would then apply the rules of ordinary law. To date, however, no such case had occurred.

58. Mr. HAMED ABDELWAHAB (Algeria), responding to paragraph 17, said that, under the Government's policy of bringing the administration of justice closer to the people, courts had been established even in extremely remote parts of the country, such as on the frontiers of Niger and Mali, an area 2,500 kilometres to the south of Algiers. Unconditional irremovability of judges would discriminate in practice against those in the south of the country, because their colleagues in the north would systematically refuse to be transferred to the harsh climatic conditions of the south. For that reason, the term of irremovability had been reduced to seven years in the Status of the Judiciary Bill currently before the National Assembly. The previous legislation had been amended, in response to a request by the Judges' Association, by a commission composed entirely of judges under the auspices of the Ministry of Justice.

59. The future Higher Council of Justice would have 31 members. Twenty judges would be elected by their peers at the various levels of the system. There would be six ex officio members: the President and Procurator-General of the Supreme Court, the President and Commissioner-General of the Council of State, the Minister of Justice and the Director of Personnel at the Ministry of Justice. Four members would be appointed by the President of the Republic.

60. The Higher Council of Justice would bear sole and sovereign responsibility for the administration of the careers of members of the judiciary. It would also operate as a disciplinary body and would be financially autonomous. Judges would in future be entitled to refuse offers of promotion, so that such offers could no longer be used as a means of

sidestepping the principle of irremovability. The Status of the Judiciary Bill was currently before the National Assembly and would be adopted at the next parliamentary session.

61. Mrs. ZERROUKI (Algeria), responding to paragraph 18, said that the special courts had been abolished in February 1995.

62. Where a person had been tried in absentia, the sentence could not be implemented under any circumstances. As soon as the individual concerned was taken into custody, the previous proceedings were declared null and void and a retrial was ordered, with the usual investigation by an examining magistrate.

63. All the provisions of article 14 of the Covenant were guaranteed under Algerian law, including the right to prepare a defence and to communicate with counsel, the presumption of innocence, the non-retroactivity of criminal law, and the principle of equality. Where a court failed to provide the requisite guarantees, defence counsel could bring an action for annulment. Following the abolition of the special criminal courts, for example, many of their decisions had been quashed by the Supreme Court. In the case of proceedings in absentia or trials for misdemeanours or non-criminal offences, appeals lay to the Court of Cassation.

64. Mrs. BOUABDELLAH (Algeria), replying to the questions in paragraph 19, said that the provisions of the Covenant had not yet been invoked before the courts in Algeria, possibly because no domestic law had been considered incompatible with its provisions. She confirmed, however, that duly ratified treaties took precedence over domestic legislation.

65. Mr. DEMBRI (Algeria), responding to paragraph 20, said that Arabic had been recognized as the national and official language in all the constitutions since Algerian independence in 1962. The Ordinance of 21 December 1996 concerning the promotion of the Arabic language had amended previous legislation dating from 1968 and 1991.

66. None of those instruments had been directed against any other language. Berber languages were spoken in many parts of Algeria and the Amazigh language was recognized in the Preamble to the Constitution as a basic constituent of the Algerian personality.

67. During the colonial period, however, the use of Arabic as an educational medium had been prohibited and its use in society discouraged. It was only natural, therefore, that independence had led to the restoration and promotion of the Arabic language in the educational system and in administration. However, foreign languages were by no means neglected. Whereas 95 per cent of the Algerian population had been illiterate in 1962, three quarters were bilingual in 1998.

68. The 1991 Ordinance concerning the promotion of Arabic had established a 1996 deadline for achievement of its aims and the 1996 Ordinance had extended those deadlines and established a Higher Council of the Arabic Language to advise the President on ways of promoting Arabic and on possible derogations from the provisions of the Ordinance. The French language could, however, continue to be used in both public and private life.

69. With regard to the Amazigh language, the Berber people actually spoke five different dialects. In 1994, the President had established a High Commissioner's Office for the Amazigh language to carry out research into the common core of the dialects and to decide upon a method of transcription. The Amazigh language was already being taught in schools in 16 departments of the country. Public services were accessible to people speaking local dialects and a national radio station had been broadcasting in Berber dialects since 1962. Algeria certainly had no desire to erase any component of its historical or cultural heritage and the term "Arabization" was, perhaps, misleading and should be replaced by "promotion of the Arabic language".

70. Mrs. KARADJA (Algeria), replying to the questions in paragraph 21, said that the National Human Rights Observatory (ONDH) was a joint body composed of appointed representatives of governmental organizations and representatives of NGOs and civil society who were elected by their peers. The ONDH received complaints from citizens concerning violations of human rights. Established in 1992, it was an advisory body reporting directly to the President. It had 26 members and 15 regional representatives. Steps were currently being taken to increase the number of regional representatives.

71. The Ombudsman of the Republic was responsible for investigating any malfunctioning of the country's public services. He served as a mediator between individual citizens and the public authorities and referred cases to the President of the Republic when the authorities concerned failed to act on a complaint. The Ombudsman was appointed by the President.

72. Mr. SOUALEM (Algeria), responding to paragraph 22, listed a number of events that had been held in Algeria in 1997: in February 1997, an international meeting on trade union freedoms; in November 1997, an international seminar on human rights organized by the Arab Institute of Human Rights; in December 1997, a conference on the right to information (the press and the audio-visual media); in September 1997, an international symposium on contemporary forms of violence; and in April 1997, a forum on human rights at the Châteauneuf Higher Police Academy. All the events he had mentioned had received government support.

The meeting rose at 1 p.m.

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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1684th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. EL SHAFEI

later: Ms. CHANET

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GE.98-17017 (E)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Algeria (CCPR/C/101/Add.1; CCPR/C/63/Q/ALG/1/Rev.1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Algeria resumed their places at the Committee table.

2. The CHAIRPERSON invited the Algerian delegation to answer the last two questions on the list of issues, following which members would be able to ask any questions they wished.

3. Mr. ABBA (Algeria) said that a partial answer to question 23 on the list (publicity given to the Covenant in Algeria) was given in paragraph 17 of the report. The Universal Declaration of Human Rights had been disseminated throughout the country in the French, Arabic and Berber languages. The Covenant had been published in the Journal officiel in the two official languages, Arabic and French, and had been widely publicized in the press, which regularly published large excerpts. The NGOs had participated in the drafting of the report through the National Human Rights Observatory, which included among its members representatives of civil society and numerous associations. The general public had been informed of the submission of the report by the press and through statements by the Minister for Foreign Affairs, who had referred to it on several occasions. The consideration of the report by the Committee had been awaited with great interest by public opinion. As to measures taken by the Government to protect the rights of complainants under the Optional Protocol, the question was pointless since no private individual had ever addressed a communication to the Committee under that instrument.

4. With regard to reservations (question 24 on the list), it should be made clear that they were not reservations but interpretive declarations. His Government had made an interpretive declaration concerning article 23, paragraph 4, of the Covenant, which related to the rights and responsibilities of spouses as to marriage; the declaration was a positive one since there were provisions of national legislation, notably relating to personal status and in the Family Code, which evolved over time. It had not entered any reservations, which would have been viewed negatively, but had made an interpretive declaration which might one day be withdrawn when permitted by the development of Algerian society and positive law concerning personal status. In areas relating to the life of society, there was no point in being too voluntarist or wishing to draw up provisions which might meet with opposition among society at large and be constantly violated. There was no doubt that the interpretive declarations would one day be withdrawn.

5. Mr. YALDEN agreed with the other members of the Committee who had expressed their deep sympathy over the sufferings of the Algerian people. He endorsed the observations made concerning extrajudicial executions and detention, and associated himself with those who had expressed disappointment at the excessively general nature of the replies. He wished to revert to the

question of discrimination against women, which Committee members had already placed among the subjects of concern following consideration of the previous report (CCPR/C/62/Add.1; see A/47/40). He had learned with interest of the composition of the Constitutional Council and other information given in paragraphs 81-90 of the report, but he would like much fuller information on the employment of women in the public and private sectors. The figures relating to teachers given in paragraph 88 were encouraging but they concerned only the education sector, there being no mention of other economic sectors. No information was given on the principle of equal pay for equal work or on the problem of sexual harassment. The delegation had mentioned the phenomenon of violence against women but in the context of terrorist activity and not in the context of society as a whole. As to personal status, paragraphs 41-43, which simply recapitulated provisions of the Family Code, failed to give an idea of the place actually occupied by women in Algerian society. Lastly, the Committee had been given some information about the functioning of the National Council of Women but had not been told anything about the practical results of that Council's activities.

6. During the consideration of the initial report, the question of minorities had already aroused the concern of the Committee, which had pointed out that the existence of minorities was not recognized. It was stated in paragraphs 177 and 178 of the report currently under consideration that the census was no longer based on ethnic, religious and linguistic criteria, since any classification of the population in terms of those criteria was "unacceptable". Against that it could be argued that the question was not whether such a classification could or could not be deemed acceptable; the essential point was that a Berber minority and a Tuareg minority existed, and the Committee must know what was being done for those two mincrities. The report contained a modicum of welcome information about the measures taken in support of the Berbers but they were not sufficient; he would like to know the scope of the activities of the High Commission which had been set up.

7. The law on Arabization, which had entered into force recently and which the delegation had said was not new since it was an order dating from 1996 and amended a law of 1991, would undoubtedly have implications for the Berber minority. In fact, all sectors were affected since the law stipulated that correspondence, official actions and statements must be in Arabic; it must therefore be ascertained whether that meant only in Arabic. Article 20 of the law provided that "the signs, notices, slogans, symbols, advertisement hoardings, etc. of an institution, organization or firm shall be worded only in the Arabic language", which clearly showed that both the private sector and the public sector were concerned. Another essential question was that of education since, according to UNICEF, education in Berber was very limited. The question arose what would happen in the year 2000 when, to use the terms of the order, "full and complete teaching in Arabic in all higher educational institutions would be given". Article 15 of the Act also provided that education and training in all sectors, at all levels and in all fields would be given in Arabic. It was difficult to reconcile those provisions with the requirements of the Covenant. The Algerian delegation had drawn a parallel between those provisions and the Canadian law on official languages. The latter law created two official languages and was therefore not comparable with the Algerian law.

8. Although the existence of a number of human rights institutions was to be welcomed, it was surprising to find in the report no indication of the practical results achieved by institutions such as the National Human Rights Observatory or the Ombudsman of the Republic. Admittedly, the delegation had sent the Committee a copy of the Ombudsman's annual report but he had been unable to study it. In any event, it was significant that there was no mention of the number of complaints received by those institutions, the procedure followed or the results of their actions. In that context, the fact that no private individual had sent the Committee communications under the Optional Protocol was bewildering. Generally speaking, therefore, it should be ascertained what was the real possibility of obtaining satisfaction for an individual who thought that his rights had been violated; in the absence of detailed information, the only conclusion was that the situation seemed disquieting.

9. Ms. GAITAN DE POMBO thanked the delegation for having distributed a number of documents, including the text of the decree governing the actions of "self-defence groups". She wished to make it clear that when she had said, at the 1682nd meeting, that the activities of those groups resembled certain activities in Latin America, she had not meant the groups which had been active in certain southern-cone countries under a dictatorship; she had meant associations which sought to ensure the safety of citizens by organizing themselves in complete legality but whose activities carried risks. There was some justification for drawing a parallel between associations of that type and the self-defence groups in Algeria and for concern about the risk of situations slipping out of control.

10. The information given by the delegation about the powers of the National Human Rights Observatory had been useful but she would also like to know who financed that body, since the report stated that it was financially independent. Did it receive contributions from private individuals or NGOs, for example? Since it was clear that the Observatory had no jurisdictional function and that its recommendations were not enforceable, it should also be ascertained how it followed up the recommendations it had made. Was it just a vehicle for publicity, information and training, with no right to monitor action taken on its recommendations?

11. Ms. EVATT thanked the delegation for the information it had been able to give so far and requested further information on two questions concerning the situation of women. She would like to know first whether it was true that a rapist could be exempted from prosecution if he was prepared to marry his victim and that the judge could lower the legal age of marriage in order to permit such regularization. She also asked whether there was a law prohibiting marital rape. The information given about abortion had not completely dispelled her doubts since she had read in one of her sources that in April 1998 the Islamic Council had made a declaration restricting the right of abortion. She wondered whether those restrictions still applied and would also like to know whether it was true that, in 30 per cent of cases of female suicide, the women had been pregnant and unmarried and that the restrictions imposed on abortion, with the resultant recourse to secret abortion, had led to a sharp increase in deaths among women.

12. She associated herself with all the questions that had been asked about equality between men and women and requested that it should be made clear whether a woman married to a foreigner could pass on her Algerian nationality to a child, regardless of the child's place of birth. She had been happy to learn that the interpretive declaration concerning article 23 might one day be withdrawn, but the purport of that declaration was not clear to her. Article 29 of the Constitution guaranteed the equality of men and women before the law and article 31 guaranteed equality with regard to rights and obligations, but the Family Code reflected values which restricted equality; thus one article provided that the husband must be respected as the head of the family, polygamy was authorized and there was a matrimonial guardian who could conclude a marriage in the name of the wife. In addition, it should be ascertained whether it was true that a woman could not marry a non-Muslim whereas a man could. It was stated in paragraph 45 of the report that "the Algerian Government intends to introduce the elements of non-discrimination ... gradually", but it could only be concluded that progress was very slow and she wondered how much longer the process would take.

13. Mr. ANDO recalled that, following consideration of the previous periodic report (CCPR/C/62/Add.1), the Committee had hoped the new policy which had been initiated would lead to an improvement in the situation, and that the delegation itself had emphasized the efforts being made to bring about a return to normal. Unfortunately, far from improving, the situation had very seriously deteriorated. The Government was making great efforts to ensure that the life of the country returned to normal and the details given in the report (paras. 107-140) on the return to the electoral process showed that those efforts were laudable. In view of the importance attached by the authorities to a return to normality, he would like to know whether there were plans to repeal the decree proclaiming a state of emergency in the near future.

14. He had noted with satisfaction that the special courts had been abolished. He would like to know whether the obligation to keep the identity of special court magistrates secret (para. 99 (i) of the report) meant that the names of the judges were not revealed or whether even judges' faces were concealed. In the same context, he requested details on the boycott by lawyers in protest at the procedure for the appointment of lawyers in the special court (para. 99 (iv)). He would also welcome further information on the high-security establishments mentioned in passing in paragraph 100 of the report.

15. Turning to the question of freedom of expression and referring to paragraph 166 of the report, in which it was stated that "the right of information is being exercised in a freedom that is no longer restricted by the legislation on the state of emergency", he said that clarification was called for. It was not clear whether the restrictions provided for by law had been withdrawn or whether they were simply no longer imposed. He would also like details on the current situation with regard to the enforcement of Act No. 90-07 establishing the Information Code and Act No. 90-310. Noting from paragraph 167 that the Government had proposed a complete overhaul of the Information Code in force, he would like to know the present status of that Code.

16. Like other members of the Committee, he would welcome information on the status of the Optional Protocol to the Covenant since no complaint had ever been received by the Committee under that instrument. Was that due to lack of information or education or was there some other reason?

17. Mr. KLEIN noted that in reply to one of the Committee's written questions the Algerian delegation had stated that the courts could apply the Covenant even if it was not invoked by one of the parties in a trial. He would therefore like to know whether any provisions of the Covenant already formed part of the jurisprudence of Algerian courts. In addition, according to certain reports, the whole judicial system was now governed by a decree adopted on 24 October 1992. Since the Algerian delegation had not mentioned that, he would like to know what was the effect of that decree on the functioning of the judicial system.

18. In early July, there had been a huge protest movement by the Berber population, in particular in the town of Tizi-Ouzou, where serious disturbances had occurred. The head of the Algerian delegation had attributed that situation to a misunderstanding since, according to him, many people had not read the whole of the text of the Arabization law, which had sparked off the disturbances. He had, however, acknowledged that the use of the word "Arabization" was perhaps not very felicitous. In the text of the law, however, reference was made not only to Arabization, but to total and complete Arabization. Even though the Amazighe language was recognized in the Constitution, the fact that no account was taken of it in the new law was surprising. In connection with the observations made by the delegation concerning paragraphs 178 and 179 of Algeria's second periodic report (CCPR/C/101/Add.1), he noted that the constitutional provision that "Algeria is one and indivisible" provided no guarantee as to fulfilment of the State's obligations vis-à-vis the minorities and their rights as recognized under the Covenant.

19. At the previous meeting, the head of the delegation had said that proceedings before the courts were open and public. The question that arose was whether outside observers could attend trials. According to the information available to the Committee, representatives of NGOs such as Amnesty International, the International Federation of Human Rights and Human Rights Watch had been denied access to courtrooms. It would accordingly be interesting to know when foreign observers had been able to follow trial proceedings. Lastly, according to a newspaper report, a few days before a number of terrorists had killed 15 soldiers at a camp in the south-west of the country. That report was disturbing since it would seem that not even the army was able to defend itself.

20. Ms. MEDINA QUIROGA said she did not understand how the National Human Rights Observatory, mentioned in paragraph 24 of the State party's report, could at the same time be a public NGO and report to the President of the Republic.

21. At the previous meeting, she had requested further information on secret places of detention. In that connection, the National Human Rights Observatory had itself called, in reports covering the periods 1994, 1995

and 1996, for the abolition of those establishments which were beyond the control of the law. She fully associated herself with the questions asked by Ms. Evatt and would like further details on the status of children born out of wedlock. Were they subjected to any kind of discrimination?

22. On the question of the judiciary, she asked what decree adopted on 24 October 1992 had suspended or cancelled certain powers of the Council of Justice and had conferred them on the Ministry of Justice or some other authority and by what body judges were currently appointed, promoted or dismissed.

23. The Algerian delegation had stated that some newspapers had been suspended between January 1992 and December 1993. According to the information available to the Committee, the newspaper La Nation, for example, had been banned for a period of nine months in 1995 and 1996. What had happened exactly? Was it true that a journalist belonging to the APS, the Algerian news agency, had spent two years in prison before being conditionally released on 2 April 1997 for having revealed the place of detention of a leader of the Islamic Salvation Front? Was it true that the newspaper La Tribune had been banned for six months and its chief editor given a suspended one-year prison sentence for publishing a cartoon satirizing the Algerian flag? What comments could the Algerian delegation make about the Ministerial Order of 16 June 1994, which imposed a kind of embargo on information? Was that order still in force? Could the delegation also clarify the reasons why the authorities had set up "reading committees" in publishing houses and say whether those committees still existed. A new bill under consideration in Parliament was intended to forbid journalists from discussing questions "contrary to national values". She would like to know what those values were and also whether it was true that the chief editor of the newspaper El Watan had been under police surveillance ever since he had published a report that a close acquaintance of the Prime Minister had been involved in misappropriation of public funds.

24. In connection with article 25 of the Covenant, she would like to know whether article 73 of the Constitution was still in force. Under that article, in order to be eligible for the office of President of the Republic, a candidate must not only be of the Muslim faith, but must also furnish evidence of the Algerian nationality of his spouse and proof, if he had been born after July 1942, that his parents had not been involved in acts hostile to the revolution of 1 November 1954. In addition, under the Constitution, legislative power was exercised by two chambers, the People's National Assembly and the Council of the Nation. Two thirds of the members of the latter were elected by indirect suffrage and one third designated by the President of the Republic. To be adopted, a bill required three quarters of the votes of the Council of the Nation. Consequently, the members of the Council designated by the President could block the adoption of a bill.

25. Mr. ZAKHIA said that a distinction must be drawn between the savagery of the armed groups, which must be unreservedly condemned, and the regrettable excesses of the security forces. He nevertheless appealed to the Algerian authorities to authorize the presence in Algeria of independent and impartial organizations to conduct inquiries and surveillance. In Algeria as in most

third world countries, the necessary legislation for the protection of human rights was already in place; it merely needed to be enforced. To that end, the power of civil society should be strengthened.

26. Under the Algerian Constitution, the basic elements of the national identity were Islam, Amazighism and Arabism. However, in the Arabization law Arabic was declared the official language for all matters relating to public affairs. It was quite understandable that that language should be considered the main language of the country, but that did not mean that the use of other languages must be prevented. Furthermore, impeding the development of Amazighe would seriously jeopardize Algerian identity.

27. The Family Code adopted in 1984 had been a great disappointment for Algerian women and for all justice-loving people because its provisions had constituted a retrograde step for society and had been totally at variance with the Covenant. In order to justify the adoption of the Code, the authorities had, as was often the case in countries which did not recognize personal law, invoked the Sharia. For the sake of justice, the authorities should have consulted not only men but also women, who were the people primarily concerned by the Code. However, the Code had been adopted by a Parliament made up of a majority of men. As to the Sharia, the problem which arose was that of the interpretation of the texts which Islam had encouraged when it had been at its peak and which had been discontinued when Islam had entered into a decline. Against the fundamentalism of the Afghans and the Algerian armed groups who wanted to reduce women to a state of slavery must be set the progressive Tunisian model. If the Algerians considered that, unlike Tunisia, their society was not sufficiently mature to establish equality between men and women, why not adopt an optional secular code to encourage the most progressive elements of society? Several third world countries which had been in a situation similar to that of Algeria had opted for that solution.

28. He would like to know whether, as was the case in Tunisia, an Algerian woman married to a foreigner could pass on her nationality to her children. While welcoming the increasingly important place occupied by women in Algerian society, he wondered why the authorities were not taking measures such as the establishment of quotas to increase their participation in politics and the decision-making process, since it was primarily at those levels that the situation left much to be desired.

29. Mr. SCHEININ said, in connection with question 24 of the list of issues, which related to reservations, that he entirely agreed with the delegation that Algeria had not entered reservations on article 23 but had merely made an interpretive declaration. He nevertheless wondered why in that case the State party had not reported on the implementation of articles 23 and 24 of the Covenant. On the subject of the dissemination of information (question 23 of the list) he noted that, according to the delegation, no complaint under the Optional Protocol to the Covenant had been recorded. He would like to know whether the text of the Optional Protocol was distributed to detainees and, in particular, to those who were under death sentence. Were the latter allowed access to a lawyer if they wished to address a communication to the Committee?

30. As to the delegation's replies to the questions relating to freedom of expression, he would like to know whether there had been any complaints by journalists about the protection they were given by the authorities.

31. Mr. BHAGWATI asked how the provisions of the Covenant were reflected in national legislation. In the new Constitution of 28 November 1996 was there a provision giving the Covenant a force superior to that of national law? In addition, it was apparent from the Algerian delegation's replies that a public meeting could be held without prior authorization. In paragraph 172 of the report, however, it was stated that that type of meeting must henceforward be authorized by the wali. He would like to know whether such authorization could be refused and on what grounds. If an application to hold a meeting was rejected, was there any possibility of recourse to a higher authority? Similarly, a decree issued in 1993 empowered the authorities to suspend any institution or organization if the higher interest of the State so required. The provisions under which that power was granted were vaguely worded and it was impossible to know for what precise reasons an institution or organization could be suspended and whether, in the event of suspension, there was any possibility of recourse.

32. According to certain reports from NGOs, most newspaper presses and the distribution network were under the control of the State, a fact which could jeopardize freedom of the press. He would welcome clarification on that point and would also like to know whether human rights were included among the subjects of school and university syllabuses and training programmes for judges and lawyers.

33. Mr. LALLAH asked in what language a civil servant must submit a leave application, in what language a lawyer must speak in a trial and what Covenant guarantees for the accused would be afforded, particularly in the light of the provisions of article 14, paragraph 3 (a) and (f) (right of the accused "to be informed ... in a language which he understands of the nature and cause of the charge against him", and right "to have the free assistance of an interpreter"). He had understood that the Arabization law was binding on the civil service; if that was indeed the case, he wondered what problems Algeria would have to face in the future and, in general, what were the practical consequences of Arabization. In addition, given the fact that many Algerians spoke French but not Arabic, would they be considered illiterate overnight? It could be concluded that Arabization was a kind of revenge against history, which had prevented Arabic from developing as strongly as might have been expected. By going to an extreme, however, the decree might create problems not only with regard to the obligations arising for Algeria from article 14 of the Covenant, but also with regard to the obligations concerning freedom of expression, the right to receive information and the right to education. He did not know whether his concerns were justified or groundless.

34. The second question concerned equality of the sexes and the information given in paragraphs 16, 29, 43, 82 and 90 of the report. It was stated in paragraph 16, for example, that, in a decision of 20 August 1989, the Constitutional Council had reaffirmed the constitutional principle of the primacy of duly ratified treaties over domestic laws. The decision stated: "after its ratification and following its publication, any agreement forms an integral part of national law and, pursuant to article 123 of the

Constitution, acquires a higher status than domestic laws, permitting any Algerian citizen to avail himself of its provisions in the courts". From that he concluded that in the Algerian courts the Covenant had primacy over domestic law. Since Algeria had not entered reservations to article 23 but had made an interpretive declaration, he would like to know whether the Constitutional Court and the ordinary courts were bound by an interpretive declaration made by the executive. He also wondered whether all the inequalities referred to in paragraph 43, in connection with the Family Code, were not unconstitutional or, in any event, contrary to the provisions of articles 3, 23, 24 and 26 of the Covenant.

35. The CHAIRPERSON invited the Algerian delegation to reply to the latest group of questions asked by members of the Committee.

36. Mr. DEMBRI (Algeria) explained that an interpretive declaration meant that the State had a different interpretation of a particular wording. Clarification was required concerning inaccurate press reports to the effect that Algeria had been late in transmitting its report and had done its utmost to delay its submission. The delay Algeria had explained to the Committee, but the date of submission of the report had been agreed with the Chairperson so as to enable the report to be considered by the Committee in July 1998. The period covered by the report was therefore 1992-1998, six years in the life of a society, and so producing the report was no mean undertaking. During that period, Algerian society had evolved. It could even be said that the society of 1998 was not accountable for the errors of the past, all the more so because, since 1995, with the restoration of the electoral process, Algeria had become a normal State governed by the rule of law, establishing rules for the protection of the individual. All that was reflected in its fundamental instrument, the Constitution of 1996. It could be seen that Algerian society was steadily evolving and progressing by taking the example of the Family Code, which had been conceived and promulgated in 1984, in a very specific historical context, and which was currently being reviewed by the lawmakers.

37. Members of the Committee had asked for statistics on specific sectors and his delegation acknowledged that there were insufficient statistics in the report. It had noted that the requests mainly concerned the place of women in Algerian society, the education system, employment, wages and complaints of sexual harassment; it would ensure that those statistics were provided as soon as possible.

38. It had been said that certain NGOs, and more precisely Amnesty International and the International Federation of Human Rights (FIDH), had been prevented from attending trials. That was incorrect: those NGOs had been free to attend all Algerian courts. On the other hand, they had requested access to prosecution files, which was inadmissible. In that connection, his delegation had doubts about the working methods of certain NGOs and cited the case of FIDH, which, after having spent five days in Algeria on an information and liaison mission, had produced an alleged investigation report containing a number of errors, to which his Government had responded. Algeria's replies had been transmitted to the competent United Nations bodies, but his delegation doubted that they had been transmitted to the Committee and would send them to it, again out of a

concern to help establish the truth. Algeria could itself call those NGOs to account concerning the way in which they had performed their duty to safeguard human rights in the past, when the Algerians had been colonized.

39. On the question of the Arabic language, it had been championed since accession to independence in 1962; the current legislation in no way established an exclusion regime, but rather constituted a legitimate means of restoring and promoting the national language. The progress achieved in literacy could be gauged from the following figures: in 1962, 95 per cent of Algerians had been illiterate, while today 80 per cent of the population used Arabic and French, as well as other foreign languages. There were now 30 universities as opposed to just one in 1962.

40. Similarly, questions had been asked about the Berber dialects, of which there were five and which were still more or less used according to the region concerned. They were spoken dialects, with the sole exception of the Tuareg dialect, which used a number of ideograms reminiscent of the Amharic language. Algerian society was not multi-ethnic since Algerians were in fact Berbers who had adopted Arabic at the time when Arab civilization had been at its height and spread into Andalusia; that made Algerians Arab-Berbers. As to the teaching and dissemination of those five dialects, they needed to be unified and for that purpose a High Commission on Amazighism had been set up to establish a common language using an appropriate alphabet. Proceedings were at the research stage. In addition, there were pilot high schools in which the Berber language was being taught, on an experimental basis, in 16 departments and Algeria was considering the eventual enactment of a law on the promotion of Amazighe (or Tamazight). It was true that certain political parties in Algeria had called for Berber to be granted the status of an official national language, but that was a political demand. Article 27 of the Covenant guaranteed the use of certain languages in a local context. In Algeria, the use of the Berber dialect was in no way being impeded. For example, any person who appeared before a court and did not speak Arabic could request the services of an interpreter in the language of his choice; the services of interpreters were provided in registry offices, in the courts and in social security offices, in accordance with a well-established practice. Consequently, the provisions of articles 26 and 27 of the Covenant were by no means violated by the law on Arabization since, in article 27, what was involved was the need for communication between groups in specific regions. The national language was used in relations between administrative departments.

41. Before other members of the delegation replied to questions within their competence he asked whether the members of the Committee wished to receive the statistics they had requested in an addendum to the report, which would be submitted within a time limit set by the Committee, or in Algeria's next periodic report.

42. Mr. El Shafei took the Chair.

43. The CHAIRPERSON replied that it would be preferable not to wait until the next periodic report was submitted.

44. Mr. ABBA (Algeria) said that his delegation was able to reply immediately to some of the additional questions asked by members. First, a question had been asked about the access of women to employment, which, as stated in the report (paras. 86-90), was a gradual process. That trend was satisfactory in several sectors, notably the health sector, where women had practically achieved parity with men - even in terms of numbers of specialists, the judicial sector (high percentage of female judges) and, of course, the education sector. That having been said, the results were still insufficient and women were still very under-represented in the working population as a whole. Progress would obviously come as more and more girls acquired an education and, in that respect, the figures were extremely satisfactory. There was now virtually no difference between school enrolment rates for girls and boys, and eventually that would result in an increase in the employment of women in all sectors, whether in towns or in rural areas. His delegation acknowledged that female employment was still insufficient, as was the proportion of women in Parliament. There were 11 women deputies in the National Assembly, which was not enough, the only source of satisfaction being that they had been elected by universal suffrage.

45. Questions had been asked about the status of the National Human Rights Observatory. It was a non-governmental body in that it was not subordinate to the Government and was a joint body, some of its members being elected by civil society. It was linked to the Office of the President of the Republic in order to show the great importance attached to it by the public authorities. In addition, it enjoyed financial autonomy; in other words, its budget was not dependent on any other ministry and its chairman had full budgetary powers and decided how the funds allotted to him should be distributed. The Observatory had consultative status and therefore made recommendations. It helped to disseminate a human rights culture, organizing seminars for that purpose, questioned the authorities concerning human rights matters and brought questions to their attention; it also worked with civil society. It acted as a kind of link between the general public and the public authorities. Another link was the Ombudsman, who also had an awareness-raising role and served as an intermediary between the public and the authorities. He received citizens' complaints, transmitted them to the departments whose inactivity or shortcomings were the subject of the complaint and, if and when he found that the complaints had not been taken into consideration by the department concerned, he referred them to the President of the Republic, a fact which gave his role a certain amount of effectiveness. The Observatory and the Ombudsman issued regular reports on their activities; the head of his delegation had already handed the two most recent reports of those institutions to the Chairperson of the Committee.

46. Mr. HAMED (Algeria), replying to the question asked about prosecution for rape, emphasized that all cases of rape were prosecuted. Rape was a serious offence, with no mitigating circumstances - even marriage between the perpetrator of the rape and his victim. Algerian legislation contained no precise definition of sexual harassment, but that offence would never go unpunished; an alleged offender could be charged with assault.

47. A question had been asked about the procedure for appointing a lawyer in a special court, which was in principle subject to the approval of the judge presiding over that court. Such an action had never been taken and, more

generally, the enactments governing special courts had been repealed in 1995. As to the organization of the judicial system, he emphasized that that system was based on the principles set forth in the Constitution and the principal codes (Civil Code, Code of Civil Procedure, Penal Code and Code of Criminal Procedure). The decree of 24 October 1992 establishing regulations for the office of judge had been sent to the National Assembly and should be amended in order to give the judiciary greater independence. On the question of human rights training for judges, the National Institute of Magistrates ran courses on human rights in Islam, on the history of public freedoms, international machinery and international human rights instruments, and on the Code of Criminal Procedure viewed from the standpoint of human rights. Similarly, the National College for Prison Administration also gave courses on human rights in general and the code of ethics and duties of prison staff. A question had been asked about the possibility of an accused person being assisted by an interpreter. He read out article 91 of the Code of Criminal Procedure, which expressly provided for that possibility.

48. Mr. ZERROUKI (Algeria) said he thought that there had been a slight misunderstanding concerning the concept of an organization act, which applied in particular to the new Political Parties Act. The concept of an organization act had been introduced recently, on the occasion of the constitutional reform of 28 November 1996. In the hierarchy of laws, an organization act came immediately after the international treaties to which Algeria was a party. The mechanism for its adoption differed from that of other laws: it must be approved by a majority of deputies and was then sent to the Council of the Nation (Senate), which was composed of 144 members, two thirds of whom were elected and one third designated by the President of the Republic. In order to be adopted, an organization law must receive three quarters of the votes cast by that Council. Algeria had a presidential regime, which embodied national unity and the history, present and future of Algeria. That triple dimension was a constitutional principle which had been approved by 85.81 per cent of the votes cast in the referendum of November 1996.

49. As to the exercise of the rights provided for in article 21 of the Covenant, there was an error in paragraph 172 of the report: only public demonstrations were subject to authorization and applications must be submitted eight days in advance. Public meetings merely had to be announced beforehand.

50. Ms. Chanet resumed the Chair.

51. Ms. AKEB (Algeria), reverting to the questions on freedom of expression during the state of emergency, observed that in every country in the world freedom of the press could be restricted during emergencies. The measures adopted during the state of emergency in Algeria nevertheless fully complied with the relevant constitutional and legislative provisions. Freedom of the press continued to be governed by the system of declaration, and the principle of the free expression of ideas and opinions was guaranteed. In that connection, she pointed out that 10 or so independent newspapers had come into being during the state of emergency, as well as several journalists' associations. Admittedly, the provisions governing the state of emergency

gave the police expanded powers, and for the purpose of safeguarding public order, authorized certain administrative measures comprising the suspension or banning of a publication for a maximum period of six months. In the early 1990s, some newspapers had been banned on that basis. At that time, the authorities had considered that the act of publishing security-related information amounted to terrorist propaganda. For their part, journalists had considered that it was their duty to publish that information. Since 1995, however, no newspaper had been banned for that kind of reason, and journalists were free to report massacres and other acts of terrorism.

52. On the question of the three journalists working for the daily newspaper El Khabar, she reminded members of the facts as described in paragraph 168 of the report and emphasized that the call for civil war was completely at variance with the provisions of articles 19 and 20 of the Covenant. As to the case of the journalists working for the APS and La Tribune, complaints had been lodged, the case had come before the courts and a decision had been handed down. Some press organs had ceased to appear for purely commercial reasons, generally bankruptcy. Since 1993, the distribution of periodicals had been the exclusive responsibility of private firms. The reference to national and universal values in the new Information Act should be interpreted as a means of promoting those values, the Algerian authorities holding the view that the press had an educational role. As to the protection of journalists, she stated that 700 were living in protected accommodation, namely six or seven seaside hotels. Since the authorities had decided to close one of those establishments for refurbishment in preparation for an important meeting to be held in 1999, they had offered the journalists concerned accommodation in three other hotels. Since one of them was somewhat out of the way, the 50 or so journalists due to stay there had refused; the authorities were at present doing their utmost to rehouse them in a more conveniently situated hotel. Lastly, in connection with reports that a newspaper had been placed under police surveillance for having published a report of embezzlement of public funds, she said that corruption was not a taboo subject in Algeria, that it was often referred to in the press, and that no publication was under surveillance for that reason.

53. Ms. KARADJA (Algeria), replying to the questions asked about the Family Code, said that today the evil done in 1984 by a National Assembly in which conservatives had been in a majority must be made good. The current proposed amendments to the Family Code were based not on the principle of equality between men and women, but on that of social justice. By placing stress on certain factors underlying blatant cases of social injustice, the authors of the amendments hoped to be able to convince the National Assembly and secure improvements. On the question of polygamy, it would have been Utopian to believe that the National Assembly would simply agree to its prohibition; it was therefore proposed that it should be the subject of deterrent measures. In particular, the proposed new text provided for the consent, duly noted by a judge, of the two wives. Another factor which should bring about a decline in polygamy was the economic recession, since husbands were required to ensure that their two wives enjoyed the same living standards. A further amendment to the Code stipulated that a guardian would not be able to force a girl to marry; similarly, he could neither conclude nor prevent a marriage. The situation of children born out of wedlock should also be improved. At

present, such children were cared for by the State, which had set up 23 homes for them. In the same way, children born after rape were cared for, without any particular discrimination, and were automatically given the status of wards of the State. Other amendments were proposed, notably regarding paternity suits. No man would be able, in the name of Islam, to basely refuse to acknowledge his paternity. It was, in fact, well known that such refusals were the prime cause of child abandonment, the status of unmarried mother being looked down on in Algerian society.

54. To the question about the suicide of women who had become pregnant following rape she replied that there were various reasons for female suicide. She nevertheless confirmed that, in at least one case known to her, a girl who had been abducted and raped had committed suicide in Bab-el-Oued hospital. In addition to the trauma of rape, that girl had suffered continual brutality during the nine months she had spent with her terrorist abductors.

55. The CHAIRPERSON thanked the Algerian delegation for the many oral replies which it had given to members' questions and which had usefully supplemented the second periodic report. That report had admittedly been submitted late, but the Committee in no way considered that the Algerian authorities had evaded their obligations under article 40 of the Covenant, contrary to what had apparently been implied in certain sectors of the press. In accordance with its usual practice, the Committee had sent a reminder to the Permanent Mission of Algeria to the United Nations Office at Geneva, which had then undertaken to submit the second periodic report within three months. That it had done.

56. Following the consideration of Algeria's second periodic report, several positive aspects emerged, in particular the prospects of collaboration with ICRC and the United Nations mission which was due to travel to Algeria shortly, the establishment of the post of Ombudsman and the setting-up of the National Human Rights Observatory. Another welcome development was the reform of the Constitution, which went some way to establishing a legal framework more conducive to the protection and promotion of human rights. In that connection, however, it was regrettable that the annual reports of the National Human Rights Observatory and the Ombudsman had been sent to the Committee so late and had not been appended to the second periodic report. The Committee further noted that that report did not contain sufficient information on the difficulties encountered by the Algerian authorities in implementing the Covenant. It noted in that connection that the situation of violence which had engulfed the country for more than five years was causing suffering for all Algerians, and more particularly women. The Committee wished to assure the Algerian authorities that it by no means underestimated the extent or horror of the phenomenon of terrorism. If it had, to the fullest extent possible, refrained from mentioning the terrorist groups by name, it had been in order to avoid giving them any kind of publicity. In those circumstances and in the light of the implementation of the Covenant and the undertakings entered into on that basis by Algeria, the responsibility of the State party, which was in fact embodied in the Algerian Constitution, was the only one which the Committee was empowered to evaluate. The State party also bore responsibility vis-à-vis criminal activities, regardless of their origin, and the activities of the authorities in power during the

period covered by the report. In that context, the Committee had noted, in particular from information communicated by the delegation, that the protection of the public by the State had been inadequate. In particular, the abandonment to citizens of the essential prerogative of the public authorities - ensuring security - constituted abandonment of the primacy of law and reflected a loss of confidence in the official security forces, which was extremely disturbing. Furthermore, it had very serious effects, because it made citizens targets of terrorism and resulted in what the delegation had called inevitable excesses, notably intentional homicides, summary executions or whatever name they were given, which were beyond the control of the State.

57. Throughout the consideration of the second periodic report, the Committee had endeavoured to dispel misunderstandings about the nature of the communication with the State party and to establish a genuine dialogue. It should be repeated once again that the Committee was not a court, and the exercise of considering the periodic report of a State party must not be regarded as a kind of indictment. Similarly, however, the State party delegation must not try to convert the exercise into an indictment of NGOs, which would in any case have no opportunity to state their case. What the Committee expected from the State party was that it should give its evaluation not of a specific fact, but of the phenomena underlying it. As to the state of emergency, for example, article 4 of the Covenant provided that no derogation might be made from certain of its articles, notably articles 6, 7 and 16. In fact, not only NGOs but the international press as a whole had reported cases of torture, disappearance and summary execution in Algeria, which was confirmed by the most recent report of the National Human Rights Observatory. Given that situation, the Committee did not expect case-by-case explanations, but would like to know how the Government was responding to that phenomenon and what machinery it had set up to ensure that the allegations were investigated and that the victims received compensation. The State party must not simply deny the facts on the grounds that the Committee had not furnished proof of their existence, since that was simply not the Committee's role.

58. Although the dialogue with the Algerian delegation had not dispelled all the concern felt by members of the Committee, it had nevertheless had the merit of being frank. Some questions had not yet been answered and the delegation had undertaken to answer them in writing in the next few days. She thanked the delegation in advance and expressed the hope that when the Committee came to consider Algeria's third periodic report, the situation in the country would be calmer.

59. Mr. DEMBRI (Algeria) thanked the members of the Committee for the questions and observations which they had addressed to his delegation and which had provided guidance on the way of improving the analysis of events and the development of Algerian society as a whole. He also welcomed the frankness with which they had assessed the situation in his country and the flexibility they had shown. He thanked the Committee for having expressed its solidarity with Algerian society and condemning terrorist barbarism without reservation. The terrorist activity placed the Algerian authorities squarely before new responsibilities, which they fully intended to assume, in strict compliance with the law. As to the report, his delegation acknowledged

that it contained gaps. Members' questions which had not yet been answered would be the subject of a written supplement that would be sent to the Committee within the next few days. In conclusion, he assured the Committee that the authorities in his country would endeavour to derive the fullest possible benefit from the dialogue which had been established with the Committee.

60. The CHAIRPERSON thanked the Algerian delegation and announced that the Committee had thus concluded consideration of Algeria's second periodic report.

The meeting rose at 5.45 p.m.